

## **REMARKS**

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and the following reasons.

The Examiner found Applicants' September 27<sup>th</sup> response non-compliant because the new paragraph should not be underlined. In response to the objection, the new paragraph in question is not underlined and therefore in compliance with the formality requirement. The content of the September 27<sup>th</sup> response is re-submitted herewith. Applicants respectfully request entry of this amendment.

### **Claim Status**

Applicants have added claims 11-14 based on the support in the original specification, at page 4, last two lines, page 5, lines 1-2, lines 5-6, lines 13-16 and lines 20-21. Claim 10 is canceled pursuant to the Examiner's suggestion. Applicants have amended claim 1 to provide antecedent basis for the dependent claims, which is amply supported by the specification, for example, at page 5, lines 1-9 as well as lines 23-29. Claims 2-9 have been amended to set forth the subject matter more clearly. No new matter is introduced by way of this amendment. Upon entry, claims 1-9 and 11-14 will be pending.

### **Priority Claim**

In the foregoing amendments to the specification, Applicants have inserted a paragraph in reference to the priority applications, US Patent Application Nos. 60/433,767 and 60/433,960, filed December 17, 2002 and December 18, 2002, respectively. Accordingly, Applicants have obviated the basis for the objection to priority claim.

### **Information Disclosure Statement**

The Examiner alleges that the IDS filed 1/17/06 does not comply with 37 CFR 1.98(a)(2) for failing to provide copies of the references. The IDS in question was filed with the PTO/SB/08 form listing the references cited in the International Search Report in the corresponding PCT Application No. PCT/EP2003/015047.

Pursuant to MPEP 1893.03(g), “the examiner will consider the documents cited in the international search report, *without any further action by applicant under 37 CFR 1.97 and 1.98*, when both the international search report and copies of the documents are indicated to be present in the national stage file. The examiner will note the consideration in the first Office action” (emphasis added). Nevertheless, courtesy copies of the cited references are filed concurrently with this response. Applicants respectfully request these references be considered and made of record.

### **Claim Objections**

The Examiner has objected to claim 10 as a duplicate of claim 2 and to claim 3 for misspelling. Applicants have canceled claim 10 and amended claim 3 to correct a typographical error, in keeping with the Examiner’s suggestions. Accordingly, Applicants request withdrawal of the claim objections.

### **Rejections to Claims under 35 U.S.C §112, Second Paragraph, and 35 U.S.C §101**

The Examiner has rejected claims 1-10 for alleged indefiniteness and for failing to set forth any steps. Applicants have canceled claim 10 and amended the remaining method claims in question to recite the steps, and therefore, obviated the stated basis for this rejection.

The Examiner has further rejected claims 7 and 9 for alleged indefiniteness. Claims 7 and 9 presently recite only a broad range of the kinase inhibitor, while new claims 11 and 12

recite a narrow range of the kinase inhibitor. Accordingly, the rejection should be withdrawn in view of these amendments.

### CONCLUSION

Applicant believes that the present application is in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. Examiner Schuberg is invited to contact the undersigned directly, should she feel that further consideration of any issue will advance prosecution.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 CFR §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 CFR §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 16 October 2006

By 

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 672-5404  
Facsimile: (202) 672-5399

Stephen A. Bent  
Attorney for Applicant  
Registration No. 29,768